

portion subject to the request, explain why an amendment or correction is necessary, and provide the desired replacement language. Requesters may submit documentation supporting the request to amend or correct. Requests for amendment or correction will lapse (but may be re-initiated with a new request) if all necessary information is not submitted within forty-five (45) days of the date of the original request. The identity verification procedures of paragraphs (d) and (e) of § 1701.7 of this subpart apply to amendment requests.

(b). (1) Records which are determinations of fact or evidence received (e.g., transcripts of testimony given under oath or written statements made under oath; transcripts of grand jury proceedings, judicial proceedings, or quasi-judicial proceedings, which are the official record of those proceedings; pre-sentence records that originated with the courts) and

(2) Records in ODNI systems of records that ODNI or another agency has exempted from amendment and correction under Privacy Act, 5 U.S.C. 552a(j) or (k) by notice published in the FEDERAL REGISTER.

§ 1701.9 Requests for an accounting of record disclosures.

(a) *How to request.* Except where accountings of disclosures are not required to be kept (see paragraph (b) of this section), record subjects (or their guardians or representatives) may request an accounting of disclosures that have been made to another person, organization, or agency as permitted by the Privacy Act at 5 U.S.C. 552a(b). This accounting contains the date, nature, and purpose of each disclosure, as well as the name and address of the person, organization, or agency to which the disclosure was made. Requests for accounting should identify each record in question and must be made in writing to the D/IMO, as indicated in § 1701.3 of this subpart, or to the contact designated in a specific Privacy Act System of Records.

(b) *Accounting not required.* The ODNI is not required to provide accounting of disclosure in the following circumstances:

(1) Disclosures for which the Privacy Act does not require accounting, i.e.,

disclosures to employees within the agency and disclosures made under the FOIA;

(2) Disclosures made to law enforcement agencies for authorized law enforcement activities in response to written requests from the respective head of the law enforcement agency specifying the law enforcement activities for which the disclosures are sought; or

(3) Disclosures from systems of records that have been exempted from accounting requirements under the Privacy Act, 5 U.S.C. 552a(j) or (k), by notice published in the FEDERAL REGISTER.

§ 1701.10 ODNI responsibility for responding to access requests.

(a) *Acknowledgement of requests.* Upon receipt of a request providing all necessary information, the D/IMO shall acknowledge receipt to the requester and provide an assigned request number for further reference.

(b) *Tasking to component.* Upon receipt of a proper access request, the D/IMO shall provide a copy of the request to the point of contact (POC) in the ODNI component with which the records sought reside. The POC within the component shall determine whether responsive records exist and, if so, recommend to the D/IMO:

(1) Whether access should be denied in whole or part (and the legal basis for denial under the Privacy Act); or

(2) Whether coordination with or referral to another component or federal agency is appropriate.

(c) *Coordination and referrals.*—(1) *Examination of records.* If a component POC receiving a request for access determines that an originating agency or other agency that has a substantial interest in the record is best able to process the request (e.g., the record is governed by another agency's regulation, or another agency originally generated or classified the record), the POC shall forward to the D/IMO all records necessary for coordination with or referral to the other component or agency, as well as specific recommendations with respect to any denials.

(2) *Notice of referral.* Whenever the D/IMO refers all or any part of the responsibility for responding to a request

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to another agency, the D/IMO shall notify the requester of the referral.

(3) *Effect of certain exemptions.* (i) In processing a request, the ODNI shall decline to confirm or deny the existence or nonexistence of any responsive records whenever the fact of their existence or nonexistence:

(A) May reveal protected intelligence sources and collection methods (50 U.S.C. 403-1(i)); or

(B) Is classified and subject to an exemption appropriately invoked by ODNI or another agency under subsections (j) or (k) of the Privacy Act.

(ii) In such event, the ODNI will inform the requester in writing and advise the requestor of the right to file an administrative appeal of any adverse determination.

(d) *Time for response.* The D/IMO shall respond to a request for access promptly upon receipt of recommendations from the POC and determinations resulting from any necessary coordination with or referral to another agency. The D/IMO may determine to update a requester on the status of a request that remains outstanding longer than reasonably expected.

(e) *ODNI action on requests for access—*

(1) *Grant of access.* Once the D/IMO determines to grant a request for access in whole or in part, the D/IMO shall notify the requester in writing and come to agreement with the requester about how to effect access, whether by on-site review or duplication of the records. If a requester is accompanied by another person, the requester shall be required to authorize in writing any discussion of the records in the presence of the other person.

(2) *Denial of access.* The D/IMO shall notify the requester in writing when an adverse determination is made denying a request for access in any respect. Adverse determinations, or denials, consist of a determination to withhold any requested record in whole or in part; a determination that a requested record does not exist or cannot be located; a determination that what has been requested is not a record subject to the Privacy Act; or a determination that the existence of a record can neither be confirmed nor denied. The notification letter shall state:

(i) The reason(s) for the denial; and

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(ii) The procedure for appeal of the denial under § 1701.14 of this subpart.

§ 1701.11 ODNI responsibility for responding to requests for amendment or correction.

(a) *Acknowledgement of request.* The D/IMO shall acknowledge receipt of a request for amendment or correction of records in writing and provide an assigned request number for further reference.

(b) *Tasking of component.* Upon receipt of a proper request to amend or correct a record, the D/IMO shall forward the request to the POC in the component maintaining the record. The POC shall promptly evaluate the proposed amendment or correction in light of any supporting justification and recommend that the D/IMO grant or deny the request or, if the request involves a record subject to correction by an originating agency, refer the request to the other agency.

(c) *Action on request for amendment or correction.* (1) If the POC determines that the request for amendment or correction is justified, in whole or in part, the D/IMO shall promptly:

(i) Make the amendment, in whole or in part, as requested and provide the requester a written description of the amendment or correction made; and

(ii) Provide written notice of the amendment or correction to all persons, organizations or agencies to which the record has been disclosed (if an accounting of the disclosure was made);

(2) Where the D/IMO has referred an amendment request to another agency, the D/IMO, upon confirmation from that agency that the amendment has been effected, shall provide written notice of the amendment or correction to all persons, organizations or agencies to which ODNI previously disclosed the record.

(3) If the POC determines that the requester's records are accurate, relevant, timely and complete, and that no basis exists for amending or correcting the record, either in whole or in part, the D/IMO shall inform the requester in writing of:

(i) The reason(s) for the denial; and